



**UNITED STATES DEPARTMENT OF COMMERCE**

National Oceanic and Atmospheric Administration

**NATIONAL MARINE FISHERIES SERVICE**

Southeast Regional Office

263 13th Avenue South

St. Petersburg, Florida 33701-5505

<http://sero.nmfs.noaa.gov>

**MAY 6 2014**

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**SER-2014-13026**

Ms. Leslie Craig  
Supervisor, NOAA Restoration Center  
National Marine Fisheries Service  
Office of Habitat Conservation  
263 13<sup>th</sup> Avenue South  
St. Petersburg, Florida 33701

Ref.: DWH-ERP, Popp's Ferry Causeway Park, Harrison County, Mississippi

Dear Ms. Craig:

This letter responds to the National Oceanic and Atmospheric Administration (NOAA) Restoration Center's letter of January 21, 2014, requesting National Marine Fisheries Service (NMFS) concurrence under Section 7 of the Endangered Species Act (ESA) with the project-effects determinations for construction of 4 fishing piers, a marsh-overlook pier, and placement of shoreline riprap at Popp's Ferry Causeway Park. You determined that the proposed activities are not likely to adversely affect sea turtles and Gulf sturgeon. NMFS's findings on the project's potential effects are based on the project description in this response; thus, any changes to the proposed action may negate the findings of this consultation and may require reinitiation of the consultation with NMFS.

The proposed project is located at 30.418°N, 88.977°W (North American Datum 1983), just west of the Popp's Ferry Bridge. The project site is surrounded by water on all sides, including the Biloxi River to the north, Big Lake to the west, and the Back Bay to the east and south. The project proposes to enhance coastal recreational access and opportunities, with improvements such as an interpretive center, boardwalks, nature trails, and fishing piers (Figure 1).

Approximately 1,326 linear feet (lin ft) of existing riprap debris would be replaced with clean concrete/conglomerate riprap at the water's edge along the western and southern project boundaries to stabilize the shoreline. Water-side access via a float barge would be necessary to place the riprap from the channel west of the shoreline. With the shoreline riprap in place, the construction of 4 fishing piers would extend out from the boardwalk. Two Type A fishing piers will be 20 feet (ft) by 30 ft, covering 1,200 square feet (ft<sup>2</sup>). Two Type B fishing piers will be 40 ft by 40 ft, covering an additional 3,200 ft<sup>2</sup>.

The Marsh Overlook pier will be constructed north of Causeway Drive. This pier will be 25ft by 25 ft, covering 625 ft<sup>2</sup> of open water. All piers will be constructed on 12-inch-diameter wood piles installed with a vibratory hammer. The construction and installation of the proposed piers will be from a working barge, which will house the crane, vibratory hammer, and clamshell bucket. Using the piles as a foundation, conventional support framing and decking will be used



to construct all piers to their applicable specifications. Each Type A pier will contain 12-15 piles and will require a day to install. The Type B fishing piers will contain 25-30 piles each and require approximately 2 days to install. The marsh overlook pier requires approximately 125 piles and 8 days to install. This includes construction of a connecting boardwalk over brackish marsh to open water. The project applicant will utilize the Mississippi Department of Environmental Quality's 3-volume manual *Erosion Control, Sediment Control and Stormwater Management on Construction Sites and Urban Areas* and the *Field Manual for Erosion and Sediment Control on Construction Sites in Mississippi*.

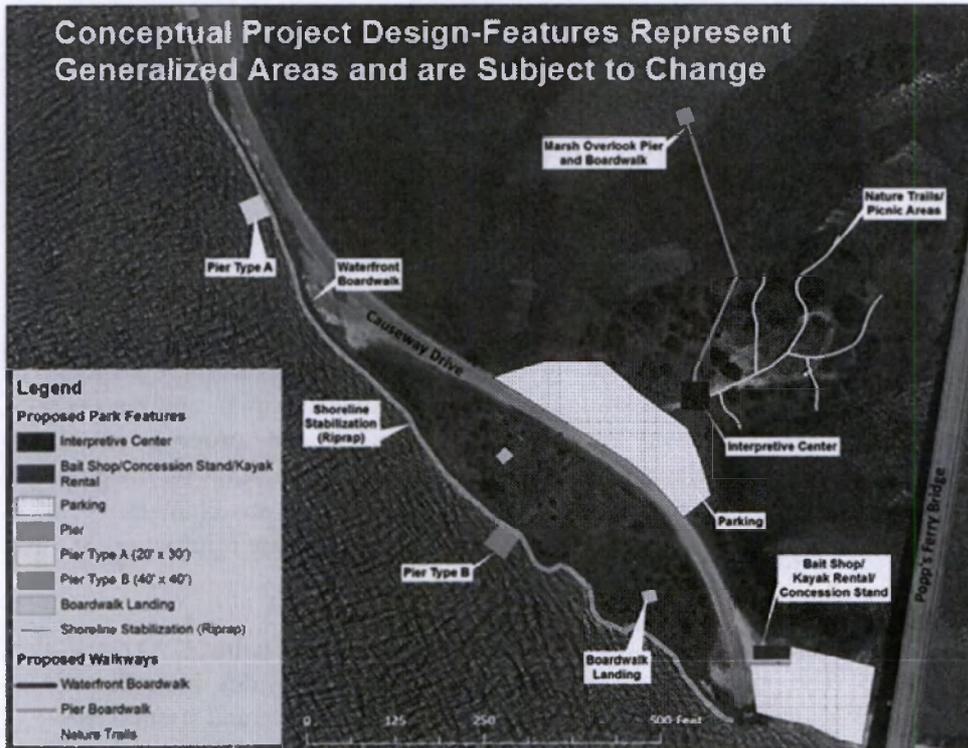


Figure 1. Google Earth© image showing project layout including fishing and marsh-overlook piers

We believe that sea turtles (the endangered Kemp's ridley; the threatened loggerhead,<sup>1</sup> and the threatened/ endangered green<sup>2</sup>) and the threatened Gulf sturgeon may be present in the action area and may be affected by the project. We believe leatherback and hawksbill sea turtles will never be present, thus, will not be affected, because their very-specific foraging and life history requirements are not met in or near the action area. Leatherbacks are deepwater, pelagic species and hawksbills are associated with coral reefs. The action area is not located in designated or proposed critical habitat for any listed species; therefore, none will be affected.

<sup>1</sup> Northwest Atlantic Ocean distinct population segment (DPS).

<sup>2</sup> Green turtles are listed as threatened except for the Florida and Pacific coast of Mexico breeding populations, which are listed as endangered.

NMFS has identified the following potential effects to sea turtles and Gulf sturgeon and concluded the species are not likely to be adversely affected by the proposed action for the following reasons. Effects to sea turtles and Gulf sturgeon include the risks of being struck by construction materials or operating machinery, which will be discountable or implausible due to the species' mobility, ability to detect in-water disturbances, and expected avoidance of the active construction area. The applicant will implement NMFS's *Sea Turtle and Smalltooth Sawfish Construction Conditions*, dated March 23, 2006, which will provide further protection and the presence of mandatory turbidity curtains creates a barrier to species proximity to operating equipment.

Noise created during pile installation could affect these species through behavioral changes or through physical injury. NMFS believes that due to the unrestricted, open-water nature of the action area; availability of alternate, suitable habitat; and the species' mobility, hearing abilities, and expected avoidance behaviors, sea turtles and Gulf sturgeon are unlikely to voluntarily remain in the vicinity of annoying levels of noise and be exposed to potentially harmful noise effects. In addition, noises generated by the vibratory method of pile installation would have insignificant effects to sea turtles or Gulf sturgeon. The source levels of noise produced by pile driving will not exceed 120 dB re 1  $\mu$ Pa RMS for continuous noise, 160 dB re 1  $\mu$ Pa RMS for impulsive noise, or 180 dB re 1  $\mu$ Pa RMS from zero to peak. Based on data from the Federal Highway Administration (2012)<sup>3</sup> on impact pile driving threshold noise levels for fish, we believe that noise impacts from the installation of piles will be insignificant. Fish are considered more sensitive to physical injury than sea turtles; therefore, fish thresholds are used as conservative interim criteria. Moreover, there is a discountable risk that the animals would be able to get close enough to the sound source to be adversely affected, due to the use of turbidity curtains. Thus, the risk of short- or long-term exposure to harmful noise is discountable, and any sounds heard by them will have insignificant health effects.

These species also may be affected by being temporarily unable to use the site for forage habitat because of physical exclusion from areas contained by turbidity curtains. Turbidity curtains will use the smallest area practicable and be removed upon project completion. Furthermore, the features of the area include limited foraging resources, shoreline comprised of concrete riprap, and long distance from the nearest pass out into the Gulf of Mexico (approximately 7 miles), making it unlikely to be important or frequently-used habitat. This assessment is further supported by minimal sea turtle sightings and/or interactions. Therefore, the likelihood of an adverse impact is discountable; if one did occur, the impact would be insignificant.

The potential for injury from recreational fishery activities was considered. Given the overall minimal use of the project site by the species, as discussed above, and the nature of the pier itself (primarily used by neighborhood locals, with limited fishing activity), we feel that the likelihood of a recreational fishery interaction with sea turtles or Gulf sturgeon is low enough to be discountable.

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<sup>3</sup> Federal Highway Administration. 2012. Technical Guidance for Assessment and Mitigation of the Hydroacoustic Effects of Pile Driving on Fish. Final. February (ICF 645.10). Prepared by ICF International, Seattle, WA.

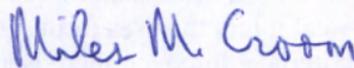
Finally, we concur with your determinations that the project is not likely to adversely affect Kemp's ridley, loggerhead, or green sea turtles, or Gulf sturgeon. We believe leatherback and hawksbill sea turtles will be unaffected.

This concludes the NOAA Restoration Center's consultation responsibilities under the ESA for species under NMFS's purview. Consultation must be reinitiated if a take occurs or new information reveals effects of the action not previously considered, or the identified action is subsequently modified in a manner that causes an effect to the listed species or critical habitat in a manner or to an extent not previously considered, or if a new species is listed or critical habitat designated that may be affected by the identified action.

We've enclosed additional relevant information for your review. We look forward to further cooperation with you on other projects to ensure the conservation of our threatened and endangered marine species and designated critical habitat.

If you have any questions about this consultation, please contact Joyce Barkley-Hahn, Consultation Biologist, at (727) 551-5741, or by email at [joyce.barkley-hahn@noaa.gov](mailto:joyce.barkley-hahn@noaa.gov).

Sincerely,



for Roy E. Crabtree, Ph.D.  
Regional Administrator

Enc.: 1. *Sea Turtle and Smalltooth Sawfish Construction Conditions* (Revised March 23, 2006)

File: 1514-22.C

## SEA TURTLE AND SMALLTOOTH SAWFISH CONSTRUCTION CONDITIONS

The permittee shall comply with the following protected species construction conditions:

- a. The permittee shall instruct all personnel associated with the project of the potential presence of these species and the need to avoid collisions with sea turtles and smalltooth sawfish. All construction personnel are responsible for observing water-related activities for the presence of these species.
- b. The permittee shall advise all construction personnel that there are civil and criminal penalties for harming, harassing, or killing sea turtles or smalltooth sawfish, which are protected under the Endangered Species Act of 1973.
- c. Siltation barriers shall be made of material in which a sea turtle or smalltooth sawfish cannot become entangled, be properly secured, and be regularly monitored to avoid protected species entrapment. Barriers may not block sea turtle or smalltooth sawfish entry to or exit from designated critical habitat without prior agreement from the National Marine Fisheries Service's Protected Resources Division, St. Petersburg, Florida.
- d. All vessels associated with the construction project shall operate at "no wake/idle" speeds at all times while in the construction area and while in water depths where the draft of the vessel provides less than a four-foot clearance from the bottom. All vessels will preferentially follow deep-water routes (e.g., marked channels) whenever possible.
- e. If a sea turtle or smalltooth sawfish is seen within 100 yards of the active daily construction/dredging operation or vessel movement, all appropriate precautions shall be implemented to ensure its protection. These precautions shall include cessation of operation of any moving equipment closer than 50 feet of a sea turtle or smalltooth sawfish. Operation of any mechanical construction equipment shall cease immediately if a sea turtle or smalltooth sawfish is seen within a 50-ft radius of the equipment. Activities may not resume until the protected species has departed the project area of its own volition.
- f. Any collision with and/or injury to a sea turtle or smalltooth sawfish shall be reported immediately to the National Marine Fisheries Service's Protected Resources Division (727-824-5312) and the local authorized sea turtle stranding/rescue organization.
- g. Any special construction conditions, required of your specific project, outside these general conditions, if applicable, will be addressed in the primary consultation.

Revised: March 23, 2006